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8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 4079

13 **RUSSELL R. JAVIER**
14 **4393 Tyler Street**
Riverside, CA 92503

A C C U S A T I O N

15 **Pharmacy Technician Registration**
16 **No. TCH 72666**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

23 2. On or about October 27, 2006, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 72666 to Russell R. Javier (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on May 31, 2012, unless renewed.

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4. Section 4300, subdivision (a) of the Code states "Every license issued may be suspended or revoked."

STATUTORY PROVISIONS

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

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8. United States Code, title 21, section 843 states, in pertinent part:

(a) It shall be unlawful for any person knowingly or intentionally –

• • • •

(3) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

• • • •

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUG

10. Ecstasy, the street name for MDMA,3,4 (methylenedioxyamphetamines), is a Schedule I controlled substance under California Health and Safety Code section 11054, subdivision (d)(4), and is classified as a dangerous drug pursuant to Business and Professions Code section 4022. MDMA is a synthetic, psychoactive drug with a chemical structure similar to the stimulant methamphetamine and the hallucinogen mescaline.

FACTS

11. On or about the afternoon of December 9, 2010, deputies from the Los Angeles County Sheriff's Department conducted a traffic stop on a vehicle driven by Respondent that did not have a rear license plate. Respondent consented to a personal search; the deputy located \$1,638 in U.S. currency in Respondent's front pants pocket. Respondent admitted that there might be something illegal in his vehicle and allowed the deputies to search it. Under the driver's front seat, the deputies located a box that contained a small ziplock baggie containing six small, light blue pills, which were later identified as Ecstasy. Respondent gave various scenarios as to why he was in possession of \$1,638 in cash and Ecstasy. After he was arrested he admitted to the deputies that he had received a UPS shipment at his residence containing 25-30 Ecstasy pills, which he then sold.

1 **CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Violation of California & Federal Statutes Regulating**
3 **Controlled Substances & Dangerous Drugs)**

4 12. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the
5 Code in that on or about on or about December 9, 2010, Respondent knowingly violated Business
6 and Professions Code section 4060 and United States Code, title 21, section 843 when he
7 obtained, possessed, and sold an illegal controlled substance and dangerous drug, as detailed in
8 paragraph 11, above.

9 **PRAYER**

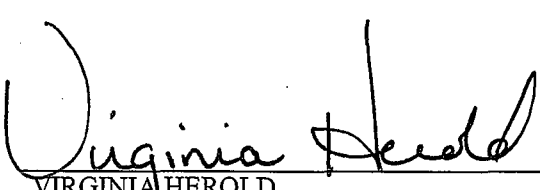
10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Pharmacy issue a decision:

12 1. Revoking or suspending Pharmacy Technician Registration Number TCH 72666,
13 issued to Russell R. Javier

14 2. Ordering Russell R. Javier to pay the Board of Pharmacy the reasonable costs of the
15 investigation and enforcement of this case, pursuant to Business and Professions Code section
16 125.3;

17 3. Taking such other and further action as deemed necessary and proper.
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20 DATED: 9/11/11

21 
22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant
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